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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,835	03/21/2001	Darren R. Kerr	062891.0993	2952
5073	7590	09/17/2007		
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER SWEARINGEN, JEFFREY R	
			ART UNIT 2145	PAPER NUMBER
			NOTIFICATION DATE 09/17/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com  
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**Office Action Summary**

Application No.

09/812,835

Applicant(s)

KERR ET AL.

Examiner

Jeffrey R. Swearingen

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 8-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 9/4/07 have been fully considered but they are not persuasive.
2. Applicant argued that Arango failed to teach *building an entry in a flow cache*. Column 11, lines 53-56 states the OGB server can transmit future packets directly to the OGB server rather than to the host. This occurs because the OGB server recognizes that the respondent to its request packet has a different IP address than the address to which the OGB server originally transmitted its request packet. Column 11, lines 50-53. This implies that IP addresses are monitored and stored in a memory for access by the OGB server in future comparisons. The storing of IP addresses from previous packets is *building an entry in a flow cache*.
3. Applicant argued that Arango failed to teach *generating an accounting record*. Applicant admits that Arango discloses ascertaining which party will pay for the session. This is all the claim requires. Applicant did not claim an accounting record "where packets are tracked or a cumulative number of bytes are systematically recorded." Remarks, page 5.
4. Applicant argued that Arango failed to teach *routing said second one message responsive to said first routing treatment*. Column 11, lines 53-56 states the OGB server can transmit future packets directly to the OGB server rather than to the host. This occurs because the OGB server recognizes that the respondent to its request packet has a different IP address than the address to which the OGB server originally transmitted its request packet. Column 11, lines 50-53. This implies that IP addresses are monitored and stored in a memory for access by the OGB server in future comparisons. The routing of future packets directly to the OGB server instead of through the host is *routing said second one message responsive to said first routing treatment*.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-6 and 8-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Arango (US 5,732,078).

7. In regard to claims 1 and 14, Arango disclosed:

*identifying, by a routing device, a first one message of a first plurality of messages, said first plurality of messages having at least one first routing treatment in common; column 11, lines 2-5*

*recording said first routing treatment, the routing treatment comprising switching information that determines an output port for switching packets, wherein said step of recording comprises building an entry in a flow cache, the routing device generating an accounting record for the first message and determining an encryption treatment for the first message; column 11, lines 15-55*

*identifying a second one message of said first plurality of messages; column 11, lines 53-55*

*routing said second one message responsive to said first routing treatment. Column 11, lines 53-55*

8. In regard to claim 2, Arango disclosed:

*said first one message comprises a packet; column 11, line 4*

*said first plurality of messages comprises a stream of packets associated with a selected source device and a selected destination device. Column 11, lines 4-5*

9. In regard to claim 3, Arango disclosed:

*said stream of packets is associated with a first selected port number at said source device and a second selected port number at said destination device. Inherent to the*

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establishment of a routed packet stream. A router connects to another router via a port on each router. The designation of a connection between the two routers implies the use of the two ports.

10. In regard to claim 4, Arango disclosed:

*said first plurality of messages comprises a message flow.* Communication session in column 11, line 5

11. In regard to claim 5, Arango disclosed:

*said first plurality of messages comprises an ordered sequence, and said first one message has a selected portion in said ordered sequence.* All TCP/IP packets are numbered.

12. In regard to claim 6, Arango disclosed:

*said first plurality of messages comprises a stream of messages between a selected pair of transport access points.* Column 11, line 5

13. In regard to claim 8, Arango disclosed:

*identifying a message of a second plurality of messages, said second plurality of messages having at least one second routing treatment in common, said second routing treatment differing from said first routing treatment.* Column 11, lines 53-55

14. In regard to claims 9 and 15, Arango disclosed:

*said routing treatment comprises access control information for said first one message.*  
Column 11, lines 15-23

15. In regard to claims 10 and 16, Arango disclosed:

*said routing treatment comprises a destination output port for routing said first one message.* A router connects to another router via a port on each router. The designation of a connection between the two routers implies the use of the two ports

16. In regard to claims 11 and 17, Arango disclosed:

*recording information about said first plurality of messages; and*  
*transmitting said information to at least one selected device on said network.* This is the use of routing tables. See column 12, lines 15-52

17. In regard to claims 12 and 18, Arango disclosed:

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*a transmission time for an initial one message in said plurality of messages;*

*a transmission time for a most recent one message in said plurality of messages;*

*a cumulative count of bytes in said plurality of messages; or*

*a cumulative count of said one messages in said plurality of messages.* Column 11, line 13 requires the use of a time stamp for either an initial message or a most recent message since the communication session is "time-sensitive."

18. In regard to claim 13, Arango disclosed:

*receiving said information at said selected device on said network;*

*recording said information in a database at said selected device; and*

*making said information available to a second device on said network.* Column 12, lines 20-25

### **Conclusion**

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Engel et al. US 6,115,393

Dobbins et al. US 5,790,546

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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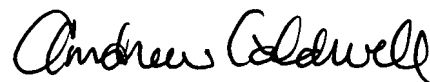
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRS

Jason Cardone  
Supervisory Patent Examiner  
Art Unit 2145



ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER